

that is rightfully ours because of our responsibilities under the Constitution to supervise the activities of the Department of Defense. That is point No. 1.

Point No. 2 is Mr. Flory, by his own job description, was involved with the formulation and coordination of international security strategy and policy for several areas including the Middle East in 2001. As Senator LEVIN pointed out, he was part of this team that developed this alternate intelligence view—alternate in the sense that it was inaccurate, grossly inaccurate.

Now we propose to promote him. There are millions of Americans who are wondering who planned this operation in Iraq so poorly. And if they find out, it is not to give these individuals a promotion. There is real responsibility here and that is the other point I find very difficult to accept. No one seems to be accountable for palpable mistakes that have been made by the Department of Defense in the conduct of these operations—not the Secretary of Defense, not the new Secretary of State, who was the National Security Advisor—and now we are promoting someone who is deeply involved in the Feith operation that created the alternate intelligence view that was at dramatic odds with the intelligence community, with the suggestion that there were serious links between Saddam Hussein, al-Qaida, and other terrorist groups.

I think on both these points we should not proceed to this nomination. We have to have the information necessary to do our jobs. If we do not, we are not doing our jobs. We are not doing our duty. Today I hope is an opportunity to focus attention on, No. 1, the fact we need the information from the Department of Defense, and also I think it is about time someone is held in some degree responsible for errors that have been made by the Department of Defense.

I yield my time.

The PRESIDING OFFICER. The Senator yields.

#### VOTE ON NOMINATION OF DORRANCE SMITH

Mr. WARNER. Mr. President, I ask for the yeas and nays on the nomination of Dorrance Smith.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Dorrance Smith, of Virginia, to be an Assistant Secretary of Defense?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Kansas (Mr. ROBERTS), and the Senator from Alaska (Mr. STEVENS).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Mrs. MURRAY), and the Senator from

West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 34, as follows:

#### [Rollcall Vote No. 91 Ex.]

##### YEAS—59

Alexander	Domenici	Martinez
Allard	Ensign	McCain
Allen	Enzi	McConnell
Bennett	Feingold	Murkowski
Bond	Frist	Nelson (NE)
Bunning	Graham	Pryor
Burns	Grassley	Santorum
Burr	Gregg	Sessions
Chafee	Hagel	Shelby
Chambliss	Hatch	Smith
Coburn	Hutchison	Snowe
Cochran	Inhofe	Specter
Coleman	Isakson	Sununu
Collins	Kohl	Talent
Cornyn	Kyl	Thomas
Craig	Landrieu	Thune
Crapo	Lieberman	Vitter
DeMint	Lincoln	Voinovich
DeWine	Lott	Warner
Dole	Lugar	

##### NAYS—34

Akaka	Durbin	Mikulski
Baucus	Feinstein	Nelson (FL)
Bayh	Harkin	Obama
Bingaman	Inouye	Reed
Byrd	Jeffords	Reid
Cantwell	Johnson	Salazar
Carper	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Conrad	Lautenberg	Stabenow
Dayton	Leahy	Wyden
Dodd	Levin	
Dorgan	Menendez	

##### NOT VOTING—7

Biden	Murray	Stevens
Boxer	Roberts	
Brownback	Rockefeller	

The nomination was agreed to.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

#### NOMINATION OF PETER CYRIL WYCHE FLORY TO BE AN ASSISTANT SECRETARY OF DEFENSE

Mr. WARNER. I urge we proceed immediately to the second vote, a cloture vote on Peter Flory.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Peter Cyril Wyche Flory to be an Assistant Secretary of Defense.

Bill Frist, Lamar Alexander, Mike Crapo, Jim Bunning, Richard Burr, Wayne Allard, Johnny Isakson, Richard Shelby, Craig Thomas, Ted Stevens, David Vitter, James Inhofe, Chuck Hagel, Norm Coleman, Mike DeWine, Robert F. Bennett, John Thune.

Mr. WARNER. Mr. President, this will be the last recorded vote of the day. There could be a voice vote subsequently, but this will be the last recorded vote for the record.

Mr. LEVIN. Whether cloture is invoked or not, we have agreed this will be the last vote.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense, be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Kansas (Mr. ROBERTS), and the Senator from Alaska (Mr. STEVENS).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Mrs. MURRAY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. THUNE). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 41, as follows:

#### [Rollcall Vote No. 92 Ex.]

##### YEAS—52

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Santorum
Bond	Enzi	Sessions
Bunning	Frist	Shelby
Burns	Graham	Smith
Burr	Grassley	Snowe
Chafee	Gregg	Specter
Chambliss	Hagel	Sununu
Coburn	Hatch	Talent
Cochran	Hutchison	Thomas
Coleman	Inhofe	Thune
Collins	Isakson	Vitter
Cornyn	Kyl	Voinovich
Craig	Lott	Warner
Crapo	Lugar	
DeMint	Martinez	

##### NAYS—41

Akaka	Feinstein	Menendez
Baucus	Harkin	Mikulski
Bayh	Inouye	Nelson (FL)
Bingaman	Jeffords	Nelson (NE)
Byrd	Johnson	Obama
Cantwell	Kennedy	Pryor
Carper	Kerry	Reed
Clinton	Kohl	Reid
Conrad	Landrieu	Salazar
Dayton	Lautenberg	Sarbanes
Dodd	Leahy	Schumer
Dorgan	Levin	Stabenow
Durbin	Lieberman	Wyden
Feingold	Lincoln	

##### NOT VOTING—7

Biden	Murray	Stevens
Boxer	Roberts	
Brownback	Rockefeller	

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.